

Division of Securities
Utah Department of Commerce
160 East 300 South
Box 146760
Salt Lake City, Utah 84114-6760
Telephone: (801) 530-6600

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

**IN THE MATTER OF THE LICENSE
OF:**

HENRY S. BROCK, CRD# 722490

Respondent.

**PETITION FOR ORDER SUSPENDING
OR REVOKING LICENSE, BARRING
AND/OR CENSURING LICENSEE, AND
IMPOSING A FINE**

Docket No. SD 03 0007

Pursuant to the authority of Utah Code Ann. § 61-1-6, the Utah Division of Securities, (“Division”), hereby petitions the Director of the Division, (“Director”) to enter an Order, in accordance with the Utah Administrative Procedures Act and subject to the approval of a majority of the Securities Advisory Board, to suspend or revoke the broker-dealer agent license of Henry S. Brock, CRD #722490, (“Respondent”) and bar and/or censure Respondent and impose a fine of up to \$ 100,000. In furtherance of this petition, the Division alleges:

STATEMENT OF FACTS

1. Respondent is licensed as a broker-dealer agent with Brock & Young Advisors, Inc. and has been so licensed since December 19, 2002. Prior to that, Respondent was licensed as

a broker-dealer agent of Ameritas Investment Corp. ("Ameritas") from August 10, 2002 to October 9, 2002. In addition, he has been licensed as an investment adviser representative or designated official of an investment adviser since June 1991.

2. In February 2002, the Division received a flyer for a seminar in which Respondent would be the presenter.
3. The Division sent Respondent a letter requesting documentation that would support the representations made on the flyer before the seminar was held.
4. Respondent claimed that he was unable to provide the documentation on such short notice, but invited the Division to attend the seminar.
5. Division auditor Russell Wilson attended the February 13, 2002 seminar.
6. On March 1, 2002, the Division sent Respondent a second request for the documentation to support the claims on Respondent's flyer.
7. Respondent contacted the Division Director, Tony Taggart, and the Executive Director of the Department of Commerce in an attempt to avoid answering the letter.
8. Between March 2002 and September 2002, the Division received three complaints regarding Respondent alleging misrepresentations, guarantees against loss, and unsuitable transactions.
9. On September 23, 2002, the Division sent Ameritas by certified mail and by fax a letter requesting information to assist the Division with an investigation the Division would be conducting on Respondent.

10. On September 24, 2002, Maria Sherffius ("Sherffius"), Compliance Officer for Ameritas, contacted the Division to discuss the request.
11. After discussing the request with Sherffius, the Division set aside the request until further information could be gathered by the Division.
12. On September 24, 2002, the Division received a new flyer promoting Respondent's seminar to be held on September 25, 2002.
13. The Division called Sherffius to discuss the flyer it had received about the seminar Respondent would be conducting and to inquire about the firm's approval of the seminar and materials.
14. Sherffius stated that the seminar, flyers and materials were not approved, and Sherffius was unaware of the seminar.
15. George Robison, licensing director, attended the September 25, 2002 seminar and received a packet of information similar to the packet distributed at the February seminar.
16. Included in the packet was an Ameritas business card with Respondent's name.
17. Based upon the complaints received by the Division and the unapproved seminar, Ameritas placed Respondent on inactive status as of September 26, 2002.
18. On October 8, 2002, Ameritas terminated Respondent.
19. On October 3, 2002, Respondent telephoned the Division requesting to meet with Taggart to discuss the recent events. When he was unable to speak with the Taggart, Respondent stated that he was going to come to the Division with his attorney and serve papers on the Division.

20. Respondent came to the Division and spoke with Paul Feindt, a Division investigator, and with the Taggart.
21. Sherffius and Ameritas' legal counsel, spoke to Russell Wilson ("Wilson"), a Division auditor and said that Respondent's letter was not approved by Ameritas and did not reflect the opinions of Ameritas.
22. On October 4, 2002, Respondent e-mailed the Division requesting that a letter be sent to Ameritas clearing Respondent. In addition, on October 7, 2002 Respondent sent Taggart an e-mail regarding their previous conversations.
23. Taggart sent Respondent a letter by fax and registered mail answer Respondent's allegations and claims concerning the Division and its auditors.
24. On October 8-9, 2002, The Division conducted an audit of Ameritas.
25. The Division's audit revealed:
 - a. Prior to being licensed in Utah with Ameritas on August 27, 2002, Respondent opened accounts for Marsden Cazier, Dennis Gross and Alyce Gross.
 - b. A letter in which Respondent said he intended to split commissions with Stephen Robinson, another unlicensed agent of Ameritas, on Merrill Wilson's account prior to being appointed.
 - c. Respondent's insurance license was suspended so he is unable to make insurance sales.
 - d. During the time Respondent's insurance license was suspended, it appears that Respondent licensed his wife so he could transact insurance business in her name.

Julie Brock, a new agent, generated \$211,134.01 in a three-month time period.

This was more than any other agent, and occurred during the time Respondent was unable to conduct sales.

- e. The documentation obtained in the audit appears to indicate Respondent's belief that transactions done by Wendell Brock, Henry Brock and Julie Brock could all be run through the name of W. Brock because Wendell Brock was a supervisor and OSJ.
- f. On May 2, 2002, Respondent met with Mr. and Mrs. Merlin Larsen (the "Larsens") in attempt to convince the Larsens not to transfer their account to another firm. During that meeting, Respondent told the Larsens that if they agreed to allow Respondent to keep their account, Respondent would guarantee them against any loss they might have in their account for the time period from May 2, 2002 through August 2, 2002. The agreement was reduced to writing and signed by the Larsens and Respondent. During the time period, the Larsens account lost \$700. When the Larsens returned to transfer the account, Respondent attempted to write them a check for the \$700. The Larsens did not accept the money.
- g. In addition to the guarantee to the Larsens, the Division found guarantees for the Marsden Cazier account.
- h. In an effort to entice past clients to re-establish their relationship with him, Respondent agreed not to charge any account fees unless the account performed.

-
- i. Respondent did not have any account applications for the accounts he opened at Ameritas.
 - j. On October 25, 2002, the Division requested a copy of the account applications once they had been gathered. The Division has not received those applications.
 - k. In a letter to “David, Steve and Lynn,” agents associated with him, Respondent acknowledged that he was not complying with the books and records requirements of the Investment Advisers Act of 1940.
 - l. Respondent told the Division that he does not maintain a correspondence file, but instead placed correspondence in client files.
 - m. Respondent does not maintain mailing lists for his flyers, but claims to have sent 6.2 million flyers out over the last 20 years.
 - n. Respondent corresponds with his clients via e-mail and does not maintain a file of e-mail correspondence.
 - o. Respondent informed the Division that he does not maintain a complaint file.
 - p. In a letter to Wendell Brock dated August 16, 2002, Respondent offered to allow to hold him to hold himself out as an associate of Respondent while he attempts to start and run a bank.
 - q. Respondent continues to hold himself out as a Certified Financial Planner (“CFP”) even though his registration as a CFP lapsed in 1997. Respondent was warned by the CFP board to refrain from using the CFP designation, but Respondent’s letters, web site and literature still list Respondent as a CFP.

-
- r. Brock Financial and Research Institute, LLC. ("BFRI") was founded by Respondent and is used in conjunction with Respondent's seminars, flyers and mailers.
 - s. BFRI paid for seminars to be presented by Respondent.
 - t. BFRI was used by Respondent to indirectly use testimonials, provide seminars and literature which Respondent would not be able to do directly under the registration he was currently under.
 - u. In a fax received September 25, 2002, Ameritas wrote that none of the seminars or flyers were authorized by Ameritas.
 - v. Respondent's Form ADV fails to disclose that their contracts are assignable without the clients' consent.
 - w. Respondent's office does not have any signs or other visual material that disclosed that Respondent's office was affiliated with Ameritas. Ameritas is a licensed broker-dealer who is required to display to the public that it is a member of the NASD and are insured by Securities Investor Protection Corporation ("SIPC").
26. On January 3, 2003, Respondent filed for chapter 7 bankruptcy. Included in the list of creditors for Respondent are the following clients who have filed complaints with the Division:
- a. Joseph & Mary Henrickson
 - b. Merlin Larsen
 - c. William & Geraldine Finch

27. Also included as creditors were the following clients:

- a. Dianna & John Hoonaker
- b. Donald A. Charleson
- c. Dorothea F. Cordner
- d. Dwayne Vawdrey
- e. Earl & Carole Peck
- f. F. Douglas Duehlmeir
- g. Jacklyn O. Stephensen
- h. Jim & Karen Oliver
- i. Karl & Gail Drlica
- j. Loretta M. Webster
- k. Lucinda DeGraaf
- l. Lynda J. Richardson
- m. Lynn Fairbanks
- n. Lynn S. Oswald
- o. Mark Lewis
- p. Dianne Kiemnec
- q. Martha A. Seiner
- r. Maryann Martin
- s. Matthew & Joann Durkovich
- t. O. Gregory Demille
- u. Sterling & Anne Ellsworth, et al

28. Respondent failed to provide the required documentation as requested by the Division in a February 7, 2002, request letter.
29. Respondent failed to provide the required documentation as requested by the Division in a March 1, 2002, request letter.
30. Respondent failed to provide the required documentation as requested in the previous letters although Respondent stated it would be provided to the Division during the Divisions audit.

GROUND S FOR RELIEF

31. Jurisdiction is vested in the Director, pursuant to § 61-1-18 of the Act.
32. Section 61-1-6 of the Act provides that upon approval by a majority of the Securities Advisory Board, the Director, by means of adjudicative proceedings conducted in accordance with the Administrative Procedures Act, codified at Utah Code Annotated, Title 63, Chapter 46b; may issue an order revoking any license granted by the Division, and may impose a fine if he finds that it is in the public interest, and that the licensee has (b) willfully violated or willfully failed to comply with any provision of this chapter. . . or any rule or order under this chapter or (g) engaged in dishonest or unethical practices in the securities business.
33. Section 61-1-3 of the Act states:

It is unlawful for any person to transact business in this state as a broker-dealer or agent unless the person is licensed under this chapter.

34. By opening accounts and conducting business at Ameritas prior to obtaining a license, Respondent willfully failed to comply with §61-1-3 of the Act warranting disciplinary action under §61-1-6 of the Act.
35. Section 61-1-5 of the Act, the post-licensing provisions, requires that broker-dealers, agents and investment advisers maintain certain books and records, and that those books and records are available for inspection by state and other regulators.
36. By not maintaining account applications, mailing lists e-mails, correspondence files, and a complaint file, Respondent willfully violated §61-1-5 warranting disciplinary action under §61-1-6 of the Act.
37. Section R164-6-1g of the Utah Administrative Code (“UAC”) defines as a dishonest and unethical business practice:
- (c)(16) (applied to agents in (d)(7)) guaranteeing a customer against a loss in any security account of the customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for the customer.
38. By guaranteeing that Respondent would accept the loss in the Larsen account, subsequently, writing the Larsens a check for that loss, and offering Marsden Cazier a guarantee against loss, Respondent engaged in a dishonest and unethical practice in the securities business warranting disciplinary action under §61-1-6 of the Act.
39. Section R164-6-1g of the UAC further defines as a dishonest and unethical business practice:
- (c)(28)(applied to agents in (d)(7)) failing to comply with any applicable provision of the Conduct Rules of the NASD or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization to which the broker-dealer is subject and which is approved by the SEC.

40. By agreeing to “park” Wendell Brock’s license, Respondent violated the NASD rule against parking licenses as described in the Notice to Members 89-49 which states:

. . .that members register only persons who are engaged in the investment banking or securities business on behalf of the member in the capacities of principal and representatives.

The amendments specifically prohibit members from maintaining registrations for persons who no longer function as principals or representatives of the firm and who no longer are active in the member’s investment banking and securities business, or who wish to avoid the re-examination requirements applicable to persons who are not registered for more than two years.

41. Section 61-1-6 (1)(h) of the Act states that the Director may revoke or suspend a license and censure or bar a licensee if he finds that the licensee:

is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, except that the director may not enter an order against a broker-dealer or investment adviser under this subsection without a finding of insolvency as to the broker-dealer or investment adviser.

42. Respondent’s bankruptcy filing is evidence of his insolvency subjecting him to disciplinary action under §61-1-6(1)(h) of the Act.

REQUEST FOR RELIEF

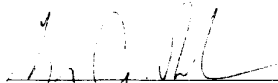
Wherefore, the Division respectfully requests that the Director enter an Order, subject to the approval of the Securities Advisory Board, and pursuant to Utah Code Ann. § 61-1-6 providing:

1. That Respondent’s broker-dealer agent licenses be revoked, censured, suspended or barred; and
2. That Respondent be ordered to pay to the Division a fine of up to \$100,000.

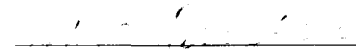
DATED this 12 day of March, 2003.

Utah Division of Securities

Approved:



George Robison
Director of Licensing



Jeff Buckner
Assistant Attorney General

Division of Securities
Utah Department of Commerce
160 East 300 South
Box 146760
Salt Lake City, UT 84114-6760
Telephone: (801) 530-6600
FAX: (801) 530-6980

**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

HENRY S. BROCK, CRD #722490;

Respondent.

NOTICE OF AGENCY ACTION

Docket no. SD-03-0007

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENT

The purpose of this Notice of Agency Action is to inform you that the Division hereby commences a formal adjudicative proceeding against you as of the date of mailing of the mailing of the Petition for Order Suspending or Revoking License, Barring and/or Censuring Licensee and Imposing a Fine ("Petition"). The authority and procedure by which this proceeding is commenced are provided by Utah Code Ann. §§63-46b-3 and 63-46b-6 through 11. The facts on which this action is based are set forth in the foregoing Petition.

Within thirty (30) days of the date of this notice, you are required to file a written response with the Division. The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Petition.

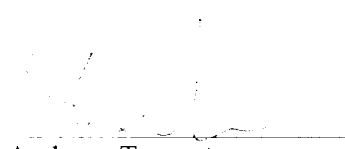
If you fail to file a written response, as set forth herein, you will be held in default and an order suspending or revoking your license, barring and or censuring you will be entered and a fine may be imposed against you in accordance with Utah Code Ann. §63-46b-11.

After the response has been filed, a discovery schedule will be established and a hearing will be set where you may appear and be heard and present evidence on your behalf.

The presiding officer in this case is S. Anthony Taggart, Director, Division of Securities, 160 East 300 South, P.O. Box 146760, Salt Lake City, UT 84114-6760, telephone (801) 530-6600. The Administrative Law Judge will be J. Steven Eklund, Utah Department of Commerce, 160 East 300 South, P.O. Box 146701, Salt Lake City, UT 84114-6701, telephone (801) 530-6648. At such hearing, the Division will be represented by the Utah Attorney General's Office, 160 East 300 South, P.O. Box 140872, Salt Lake City, UT 84114-0872, telephone (801) 366-0310. At the hearing, you may appear and be heard and present evidence on your behalf.

You may attempt to negotiate a settlement of the matter without filing an answer or proceeding to a hearing. Should you so desire, please contact the Utah attorney General's Office. Question regarding the Order to Show Cause and Notice of Agency Action should be directed to Jeff Buckner, Assistant Attorney General, 160 E. 300 South, P.O. Box 140872, Salt Lake City, UT 84114-0872, telephone (801) 366-0310.

DATED this 13th day of March, 2003.


S. Anthony Taggart
Director, Division of Securities
Utah Department of Commerce

Certificate of Mailing

I certify that on the 21st day of March, 2003, I mailed, by certified mail, a true and correct copy of the Petition and Notice of Agency Action to:

Henry S. Brock
Brecek & Young Advisors, Inc.
4000 Barranca Parkway
Suite 250
Irvine, CA 92604

Certified Mail # 7002241000341272779

THOMAS S. BROCK
Executive Secretary